

Order

Michigan Supreme Court
Lansing, Michigan

March 8, 2016

Robert P. Young, Jr.,
Chief Justice

152369

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 152369
COA: 318675
Wayne CC: 13-004789-FC

JOHN BROWN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 16, 2015 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Wayne Circuit Court for further proceedings. We do not disturb that part of the Court of Appeals judgment ordering the trial court, on remand, to resentence the defendant or find facts to support the scoring of OV 13, MCL 777.43. If the trial court does not resentence the defendant, but instead finds facts that support the scoring of OV 13, it shall then determine whether it would have imposed a materially different sentence under the sentencing procedure described in *People v Lockridge*, 498 Mich 358 (2015). The trial court shall follow the procedure described in Part VI of our opinion. If the trial court determines that it would have imposed the same sentence absent the unconstitutional constraint on its discretion, it may reaffirm the original sentence. If, however, the trial court determines that it would not have imposed the same sentence absent the unconstitutional constraint on its discretion, it shall resentence the defendant. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 8, 2016


Clerk